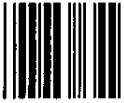


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DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

August 1999 Grand Jury

00 CR 2580 J

UNITED STATES OF AMERICA,

Plaintiff,

v.

WILLIAM F. MCCRAY (1),

PAUL YATES (2),

TONY D. ORTEGA (3),

Defendants.

Criminal Case No. _____

INDICTMENT

Title 18, U.S.C., Sec. 1341 - Mail Fraud;
Title 18, U.S.C., Sec. 1343 - Wire Fraud;
Title 18, U.S.C., Sec. 1623 - Perjury;
Title 18, U.S.C., Sec. 1956 - Money Laundering;
Title 18, U.S.C., Sec. 1957 - Money Laundering;
Title 18, U.S.C., Sec. 371 - Conspiracy;
Title 26, U.S.C., Sec. 7206(1) - Filing False Tax
Return; Title 26, U.S.C., Sec. 7206(2) - Aiding
the Preparation and Filing of False Tax Return;
Title 18, U.S.C., Sec. 2 - Aiding and Abetting;
Title 18, U.S.C., Sec. 982 and Title 21, U.S.C.,
Sec. 853 - Criminal Forfeiture

The grand jury charges:

ALLEGATIONS COMMON TO ALL COUNTS

1. At all times material to this Indictment, defendant WILLIAM F. MCCRAY was the managing agent or owner and operator of International Forex Limited, Inc, and International Forex of California, Inc. (both referred to below as "International Forex"), and of Earthwise International Limited ("Earthwise"), businesses with offices located at 888 Prospect Street, Suite 220, La Jolla, California.

2. At all times material to this Indictment, International Forex and Earthwise were in the business of soliciting investments from members of the public in a "managed currency account" purporting to trade in foreign currencies.

1 (d) induced potential investors to send money and property to International Forex and
2 Earthwise by false, fraudulent, and misleading representations that the account managers employed by
3 International Forex and Earthwise had been trained and tested by an independent international
4 association of foreign currency traders;

5 (e) induced potential investors to send money and property to International Forex and
6 Earthwise by false, fraudulent, and misleading representations that investor funds were held by The
7 Sentinel Group separate and segregated from corporate funds, that the investor funds were held in trust
8 with the Bank of New York, and that investor funds were insured;

9 (f) induced investors not to withdraw their funds from International Forex and
10 Earthwise by false, fraudulent, and misleading representations that the companies' investor account
11 records were undergoing or had undergone an independent, outside audit;

12 (g) induced investors not to withdraw their funds and to send additional money and
13 property to International Forex and Earthwise by issuing false, fraudulent, and misleading client account
14 statements indicating that investors were routinely earning substantial positive returns;

15 (h) induced investors not to withdraw their funds and to send additional money and
16 property to International Forex and Earthwise by intentionally concealing the fact that the commissions
17 taken by International Forex and Earthwise had not been subtracted from the earnings stated on the client
18 account statements;

19 (i) obtained more than \$30 million from investors on the basis of the foregoing false
20 representations and others; and

21 (j) converted substantial amounts of the money of International Forex and Earthwise
22 investors to the defendants' own use and benefit.

23 3. On or about the dates set forth below, in the Southern District of California and
24 elsewhere, defendants WILLIAM F. MCCRAY and PAUL YATES, for the purpose of executing and
25 attempting to execute the aforementioned scheme to defraud and to obtain money and property by false
26 and fraudulent pretenses, representations, and promises, did cause to be placed in a United States post
27 office or other authorized depository for mail matter, items to be delivered by the United States Postal
28 Service according to the directions thereon, as set forth below.

<u>COUNT</u>	<u>DATE</u>	<u>SENDER</u>	<u>ADDRESSEE</u>	<u>ITEM</u>
1	7/1/98	International Forex La Jolla, CA	Edward DeYoung Barrington, IL	International Forex Solicitation
2	12/14/98	International Forex La Jolla, CA	Jimmie Wing Sacramento, CA	International Forex Client Letter
3	12/17/98	Richard Newman Palm Harbor, FL	International Forex La Jolla, CA	Letter
4	12/22/98	Erik Westblom Las Vegas, NV	International Forex La Jolla, CA	Check
5	3/8/99	International Forex La Jolla, CA	Janis Miller Melrose Park, IL	Client Account Statement
6	6/14/99	International Forex La Jolla, CA	William Claypool Placerville, CA	Client Account Statement
7	6/15/99	International Forex La Jolla, CA	Charles Evans Las Vegas, NV	Client Account Statement
8	7/23/99	International Forex La Jolla, CA	William J. Farkas Las Vegas, NV	International Forex Client Letter
9	7/23/99	International Forex La Jolla, CA	Kurt Marti Bonsall, CA	International Forex Client Letter
10	7/24/99	International Forex La Jolla, CA	Stan Lenart Lockport, IL	International Forex Client Letter
11	8/19/99	International Forex La Jolla, CA	Cheryl Daringer Houston, TX	International Forex Client Letter
12	8/21/99	International Forex La Jolla, CA	Clyde Bersinger Ten Mile, TN	International Forex Client Letter

All in violation of Title 18, United States Code, Sections 1341 and 2.

Counts 13-18

WIRE FRAUD

1. Paragraphs 1 and 2 of Counts 1-12 are realleged and incorporated here.
2. On or about the dates set forth below, in the Southern District of California, and elsewhere, defendants WILLIAM F. MCCRAY and PAUL YATES, for the purpose of executing and attempting to execute the aforementioned scheme to defraud and to obtain money and property by false and fraudulent pretenses, representations, and promises, did transmit and cause to be transmitted, in

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interstate and foreign commerce, by means of wire, radio, and television communication, the writings, signs, signals, pictures, and sounds set forth below.

<u>COUNT</u>	<u>DATE</u>	<u>SENDER</u>	<u>ADDRESSEE</u>	<u>COMMUNICATION</u>
13	11/16/98	David McNitt Elkhart, IN	International Forex La Jolla, CA	Facsimile Transmission of Letter
14	1/25/99	Robert Hackett Belleair Beach, FL	International Forex La Jolla, CA	Facsimile Transmission of Letter
15	2/19/99	Sentinel Management Account - Bank of New York	International Forex Account - Bank of Bermuda	Wire Transmission of \$4 million
16	2/19/99	International Forex Account - Union Bank of California	International Forex Account - Bank of Bermuda	Wire Transmission of \$1.8 million
17	7/2/99	Sentinel Management Account - Bank of New York	International Forex Account - Union Bank of California	Wire Transmission of \$140, 000.00
18	7/6/99	Sentinel Management Account - Bank of New York	International Forex Account - Union Bank of California	Wire Transmission \$450,000.00

All in violation of Title 18, United States Code, Sections 1343 and 2.

Count 19

PERJURY

1. On or about October 28, 1999, in the Southern District of California, defendant WILLIAM F. MCCRAY, having taken an oath that he would testify truthfully, and while testifying in a proceeding before and ancillary to the United States Bankruptcy Court for the Southern District of California, did knowingly make false material declarations.

2. At the time and place alleged, the Office of the United States Trustee was conducting the First Meeting of Creditors in the case of In Re International Forex of California, Inc., Case No. 99-08078-A11.

3. It was material to the First Meeting of Creditors to determine, among other things, the business and financial relationships between International Forex and Earthwise International.

4. At the time and place alleged, defendant WILLIAM F. MCCRAY, while a witness under oath at the First Meeting of Creditors, did knowingly declare with respect to material matters as follows:

1 Q. WHAT RELATIONSHIP, IF ANY, DOES EARTHWISE (PHONETIC)
2 INTERNATIONAL, LIMITED HAVE WITH INTERNATIONAL FOREX?

3 A. NONE.

4 5. The underscored portions of the declarations of defendant WILLIAM F. MCCRAY,
5 quoted in paragraph 4 of this Count were false, as he then well knew, in that:

6 International Forex employees, working in the International Forex offices in La Jolla, California,
7 at the direction of William F. McCRay, received and processed Earthwise International investor funds,
8 prepared Earthwise International promotional materials, prepared and distributed Earthwise International
9 client account statements, and acted as account managers for Earthwise International client accounts.
10 All in violation of Title 18, United States Code, Section 1623.

11 Count 20

12 PERJURY

13 1. On or about October 28, 1999, in the Southern District of California, defendant
14 WILLIAM F. MCCRAY, having taken an oath that he would testify truthfully, and while testifying in
15 a proceeding before and ancillary to the United States Bankruptcy Court for the Southern District of
16 California, did knowingly make false material declarations.

17 2. At the time and place alleged, the Office of the United States Trustee was conducting the
18 First Meeting of Creditors in the case of In Re International Forex of California, Inc., Case No. 99-
19 08078-A11.

20 3. It was material to the First Meeting of Creditors to determine, among other things, the
21 business and financial relationships between International Forex and Earthwise International.

22 4. At the time and place alleged, defendant WILLIAM F. MCCRAY, while a witness under
23 oath at the First Meeting of Creditors, did knowingly declare with respect to material matters as follows:

24 Q. NOW, DOES INTERNATIONAL FOREX SHARE EMPLOYEES OR OFFICE SPACE
25 OR EQUIPMENT WITH EARTHWISE INTERNATIONAL?

26 A. NO.

27 5. The underscored portions of the declarations of defendant WILLIAM F. MCCRAY,
28 quoted in paragraph 4 of this Count were false, as he then well knew, in that:

International Forex employees, working in the International Forex offices in La Jolla, California, at the direction of William F. McCray, received and processed Earthwise International investor funds, prepared Earthwise International promotional materials, prepared and distributed Earthwise International client account statements, and acted as account managers for Earthwise International client accounts. All in violation of Title 18, United States Code, Section 1623.

Count 21

PERJURY

1. On or about October 28, 1999, in the Southern District of California, defendant WILLIAM F. MCCRAY, having taken an oath that he would testify truthfully, and while testifying in a proceeding before and ancillary to the United States Bankruptcy Court for the Southern District of California, did knowingly make false material declarations.

2. At the time and place alleged, the Office of the United States Trustee was conducting the First Meeting of Creditors in the case of In Re International Forex of California, Inc., Case No. 99-08078-A11.

3. It was material to the First Meeting of Creditors to determine, among other things, the business and financial relationships between International Forex and Earthwise International.

4. At the time and place alleged, defendant WILLIAM F. MCCRAY, while a witness under oath at the First Meeting of Creditors, did knowingly declare with respect to material matters as follows:

Q. INTERNATIONAL FOREX, LIMITED OR CORP., DOES IT HAVE ANY INTEREST OR HOLDING OR POSITION IN EARTHWISE INTERNATIONAL LIMITED, A NASSAU CORPORATION?

A. NONE.

Q. HAS IT DONE ANY BUSINESS WITH EARTHWISE INTERNATIONAL?

A. NONE.

Q. HAS IT REFERRED ANY CLIENTS TO EARTHWISE INTERNATIONAL?

A. NOT TO MY KNOWLEDGE.

5. The underscored portions of the declarations of defendant WILLIAM F. MCCRAY, quoted in paragraph 4 of this Count were false, as he then well knew, in that:

1 International Forex employees, working in the International Forex offices in La Jolla, California,
2 at the direction of William F. McCray, received and processed Earthwise International investor funds,
3 prepared Earthwise International promotional materials, prepared and distributed Earthwise International
4 client account statements, and acted as account managers for Earthwise International client accounts;
5 and that Earthwise International client account withdrawals were paid from International Forex bank
6 accounts.

7 All in violation of Title 18, United States Code, Section 1623.

8 Count 22

9 PERJURY

10 1. On or about November 9, 1999, in the Southern District of California, defendant
11 WILLIAM F. MCCRAY, having taken an oath that he would testify truthfully, and while testifying in
12 a proceeding before and ancillary to the United States Bankruptcy Court for the Southern District of
13 California, did knowingly make false material declarations.

14 2. At the time and place alleged, the Office of the United States Trustee was conducting the
15 First Meeting of Creditors in the case of In Re International Forex of California, Inc., Case No. 99-
16 08078-A11.

17 3. It was material to the First Meeting of Creditors to determine, among other things, the
18 business and financial relationships between International Forex and Earthwise International.

19 4. At the time and place alleged, defendant WILLIAM F. MCCRAY, while a witness under
20 oath at the First Meeting of Creditors, did knowingly declare with respect to material matters as follows:

21 Q. DO YOU KNOW WHAT CLIENTS' MONEYS WERE INVESTED IN EARTHWISE
22 INTERNATIONAL?

23 A. YES.

24 Q. WHOSE?

25 A. THERE'S A LIST OF THEM.

26 Q. WHERE IS THAT LIST?

27 A. IN EARTHWISE'S OFFICE.

28 Q. AND WHERE IS EARTHWISE'S OFFICE?

1 A. IN NASSAU.

2 Q. DO YOU HAVE A COPY OF THAT LIST IN EARTH - - - IN INTERNATIONAL
3 FOREX, INC.'S OFFICE?

4 A. NO.

5 Q. HAVE YOU EVER DONE BUSINESS WITH ANY OF THOSE CLIENTS?

6 A. PERSONALLY?

7 Q. HAS INTERNATIONAL FOREX DONE BUSINESS WITH ANY OF THOSE
8 CLIENTS?

9 A. NOT TO MY KNOWLEDGE.

10 5. The underscored portions of the declarations of defendant WILLIAM F. MCCRAY,
11 quoted in paragraph 4 of this Count were false, as he then well knew, in that:

12 International Forex employees, working in the International Forex offices in La Jolla, California,
13 at the direction of William F. McCray, received and processed Earthwise International investor funds,
14 prepared Earthwise International promotional materials, prepared and distributed Earthwise International
15 client account statements, and acted as account managers for Earthwise International client accounts;
16 and that Earthwise International client account withdrawals were paid from International Forex bank
17 accounts.

18 All in violation of Title 18, United States Code, Section 1623.

19 Counts 23-24

20 MONEY LAUNDERING

21 On or about the dates set forth below, in the Southern District of California, and elsewhere,
22 defendant WILLIAM F. MCCRAY did knowingly conduct and attempt to conduct the financial
23 transactions affecting interstate and foreign commerce which are described below and which involved
24 the proceeds of a specified unlawful activity, that is violations of Title 18, United States Code,
25 Sections 1341 and 1343 - Mail and Wire Fraud, with the intent to promote the carrying on of a specified
26 unlawful activity, that is mail and wire fraud, and knowing while conducting and attempting to conduct
27 such financial transactions that the property involved in the transactions represented the proceeds of
28 some form of unlawful activity.

COUNT	DATE	FINANCIAL TRANSACTION	AMOUNT
23	2/19/99	Wire Transmission of funds to International Forex Account - Bank of Bermuda	\$4 million
24	2/19/99	Wire Transmission of funds to International Forex Account - Bank of Bermuda	\$1.8 million

All in violation of Title 18, United States Code, Sections 1956(a)(1)(A)(i) and 2.

Counts 25-27

MONEY LAUNDERING

On or about the dates set forth below, in the Southern District of California and elsewhere, defendant WILLIAM F. MCCRAY did knowingly engage in monetary transactions, affecting interstate and foreign commerce, in criminally derived property of a value greater than \$10,000.00 which was derived from a specified unlawful activity, that is mail and wire fraud in violation of Title 18, United States Code, Sections 1341 and 1343, by purchasing property with checks and a wire transfer made payable to the payees and in the amounts set forth below.

COUNT	DATE	TRANSACTION AMOUNT	PAYEE	PURCHASE
25	2/23/98	Wire Transmission of \$99,196.04	Heritage Escrow	La Jolla, CA Residence
26	5/11/98	Cashier's Check #5757961-\$25,000.00	Rusnak Westlake Porsche	1998 Porsche Automobile
27	5/18/98	Check #1330-\$35,682.60	Rusnak Westlake	1998 Porsche Automobile

All in violation of Title 18, United States Code, Sections 1957 and 2.

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Count 28CONSPIRACY

Beginning on a date unknown to the grand jury, and continuing through in or about November 1999, in the Southern District of California and elsewhere, defendants WILLIAM F. MCCRAY and TONY D. ORTEGA knowingly conspired to defraud the United States for the purpose of impeding, impairing, obstructing, and defeating the lawful functions of the Internal Revenue Service in the ascertainment, computation, assessment, and collection of income taxes, by deceitful and dishonest means.

It was part of the conspiracy that defendants WILLIAM F. MCCRAY and TONY D. ORTEGA:

- (a) failed to report to the Internal Revenue Service income received by defendant WILLIAM F. MCCRAY totaling more than \$1 million for 1996, 1997 and 1998;
- (b) prepared and filed materially false individual federal income tax returns which intentionally omitted substantial income received by defendant WILLIAM F. MCCRAY; and
- (c) caused forms 1099 either not to be issued or to substantially understate the true income received by defendant WILLIAM F. MCCRAY.

OVERT ACTS

In furtherance of the conspiracy and to effect its objects, the following overt acts were committed within the Southern District of California, and elsewhere.

1. On or about September 6, 1997, defendant TONY D. ORTEGA prepared defendant WILLIAM F. MCCRAY'S 1996 U.S. Individual Income Tax Return.
 2. On or about September 6, 1997, defendant WILLIAM F. MCCRAY signed his 1996 U.S. Individual Income Tax Return filed with the IRS.
 3. On or about April 11, 1998, defendant TONY D. ORTEGA prepared defendant WILLIAM F. MCCRAY'S 1997 U.S. Individual Income Tax Return.
 4. On or about April 14, 1998, defendant WILLIAM F. MCCRAY signed his 1997 U.S. Individual Income Tax Return filed with the IRS.
- All in violation of Title 18, United States Code, Section 371.

1 Count 29

2 FILING FALSE TAX RETURN

3 On or about September 6, 1997, in the Southern District of California, defendant WILLIAM F.
4 MCCRAY did willfully make and subscribe a false and fraudulent 1996 U.S. Individual Income Tax
5 Return, Form 1040, which contained and was verified by a written declaration that it was made under
6 penalties of perjury and was filed with the Internal Revenue Service, which return the defendant did not
7 believe to be true and correct as to every material matter in that the said income tax return reported total
8 income of \$30,161 on lines 1 and 7 of Schedule C for the defendant, whereas, as the defendant then well
9 knew and believed, his total income was substantially higher than \$30,161; all in violation of Title 26,
10 United States Code, Section 7206(1).

11 Count 30

12 AIDING THE PREPARATION AND FILING OF FALSE TAX RETURN

13 On or about September 6, 1997, in the Southern District of California, defendant TONY D.
14 ORTEGA did willfully aid and assist in, and procure, counsel and advise the preparation and
15 presentation to the Internal Revenue Service, of a 1996 U.S. Individual Income Tax Return, Form 1040,
16 of William F. McCray, which was false and fraudulent as to a material matter, in that the said income
17 tax return reported total income of \$30,161 on lines 1 and 7 of Schedule C, whereas, as the defendant
18 then well knew and believed, William F. McCray was required to report substantially more income than
19 that which he reported; all in violation of Title 26, United States Code, Section 7206(2).

20 Count 31

21 FILING FALSE TAX RETURN

22 On or about April 14, 1998, in the Southern District of California, defendant WILLIAM F.
23 MCCRAY did willfully make and subscribe a false and fraudulent 1997 U.S. Individual Income Tax
24 Return, Form 1040, which contained and was verified by a written declaration that it was made under
25 penalties of perjury and was filed with the Internal Revenue Service, which return the defendant did not
26 believe to be true and correct as to every material matter in that the said income tax return reported total
27 income of \$30,000 on lines 1 and 7 of Schedule C for the defendant, whereas, as the defendant then well
28 knew and believed, his total income was substantially higher than \$30,000; all in violation of Title 26,
United States Code, Section 7206(1).

Count 32AIDING THE PREPARATION AND FILING OF FALSE TAX RETURN

On or about April 11, 1998, in the Southern District of California, defendant TONY D. ORTEGA did willfully aid and assist in, and procure, counsel and advise the preparation and presentation to the Internal Revenue Service, of a 1997 U.S. Individual Income Tax Return, Form 1040, of William F. McCray, which was false and fraudulent as to a material matter, in that the said income tax return reported total income of \$30,000 on lines 1 and 7 of Schedule C, whereas, as the defendant then well knew and believed, William F. McCray was required to report substantially more income than that which he reported; all in violation of Title 26, United States Code, Section 7206(2).

CRIMINAL FORFEITURE ALLEGATION

Counts 23, 24, 26, and 27 are realleged and incorporated here for the purpose of charging criminal forfeiture pursuant to the provisions of Title 18, United States Code, Section 982(a)(1).

As a result of the commission of one or more of the felony offenses alleged in Counts 23, 24, 26, and 27 of this Indictment, to wit, conducting financial transactions involving the proceeds of specified unlawful activity with the intent to promote the carrying on of specified unlawful activity, and engaging in monetary transactions in criminally derived property that is of a value greater than \$10,000, defendant WILLIAM F. MCCRAY shall forfeit to the United States any and all right, title, and interest he has in all property involved in such felony offenses, or any property which is traceable to such offenses, including but not limited to the property described below.

Counts 26-27:

1998 Porsche Boxster, VIN: WPOCA2989WU624833

Counts 23-24:

Approximately \$5,800,000 in United States currency and all interest in proceeds traceable thereto, located in places and/or bank accounts presently unknown to the grand jury.

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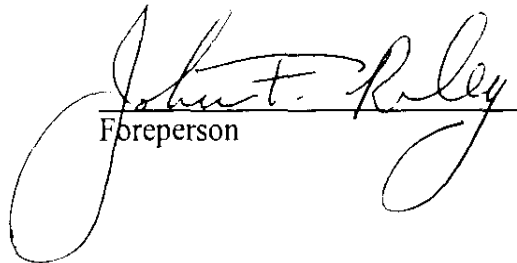
1 In the event that any property, real or personal, involved in the offenses described in Counts 23,
2 24, 26, and 27 of this Indictment, or any property traceable to such property, as a result of any act or
3 omission of the defendant:

- 4 (1) cannot be located upon the exercise of due diligence;
- 5 (2) has been transferred or sold to, or deposited with, third parties;
- 6 (3) has been placed beyond the jurisdiction of the courts;
- 7 (4) has been substantially diminished in value; or
- 8 (5) has been co-mingled with other property which cannot be divided without
9 difficulty;

10 any other property of the defendant, up to the value of \$5,860,682.60 shall be forfeited to the United
11 States pursuant to Title 18, United States Code, Section 982, and Title 21, United States Code,
12 Section 853.


13 DATED: August 10, 2000.

14 A TRUE BILL:

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16 
17 Foreperson

18 GREGORY A. VEGA
19 United States Attorney

20
21 By:


22 STEPHEN P. CLARK
23 Assistant U.S. Attorney
24
25
26
27
28